

**CITY AND COUNTY OF DENVER
DEPARTMENT OF PARKS AND
RECREATION**

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FIRST AMENDMENT TO CONCESSION LICENSE

The City and County of Denver, hereinafter referred to as the “City”, acting by and through its Manager of Parks and Recreation, hereinafter referred to as the “Executive Director,” pursuant to the authority granted in Section 2.4.4(C) of the Charter of the City and County of Denver, and pursuant to the manner, terms and conditions fixed by the Mayor’s Cabinet, hereby amends the November 27, 2018, Concession License (Contract Control Number PARKS-201840617-00) with Concessionaire **H. W. Stewart, Inc.**, for the concession services at Pahaska Tepee, Lookout Mountain Park (“Concession License”). Concessionaire, by execution of this First Amendment to Concession License, has accepted all of the terms and conditions thereof and agrees to comply with the same.

1. In Article IV of the Concession License, entitled “CONCESSIONAIRE’S DUTIES & RESPONSIBILITIES”, in subparagraph a., entitled “Food & Beverage Service”, the following is added to the end of the paragraph:

“Concessionaire may propose, for review and approval by Executive Director, additional or alternative food and beverage service and preparation at the Site. Approval shall be contingent upon Concessionaire complying with and meeting all requirements under all federal, state and local laws.”

2. Article IV, entitled “CONCESSIONAIRE’S DUTIES & RESPONSIBILITIES”, at subparagraph n.1., which is entitled “Concessionaire Contributions for City-Made Improvements”, is amended to read as follows:

“City and Concessionaire acknowledge that the amount of **Fifty Thousand Dollars and Zero Cents (\$50,000.00)** has been tendered to the City for future capital improvements made by the City to Pahaska Tepee and is no longer due and owing. City and Concessionaire initially agreed that if the Concession License is extended at the City’s options under Section VI, then Concessionaire would tender an additional amount of **Thirty Thousand Dollars and Zero Cents (\$30,000.00)** for future capital improvements. However, based on certain conditions agreed upon between the Parties, the City shall not require the Concessionaire to tender the \$30,000.00 to the City. Improvements selected and made by the City, if any, shall be at the sole discretion of the Executive Director, and work on the improvements will be managed and directed by the City.”

3. Article VI of the Concession License shall be amended to read as follows:

VI. <u>TERM:</u> <u>EFFECTIVE DATE:</u>	<u>EXPIRATION DATE:</u>
January 1, 2018	December 31, 2024

4. For clarity, the following sentence is hereby deleted from Article VI: “At the City’s sole option and discretion, the Term may be extended an additional two (2) years.”

5. In the Concession License Terms and Conditions attached to the Concession License, Section 3-11 shall be amended to read as follows:

“a. The Concession License is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

b. Concessionaire certifies that:

1) At the time of its execution of this Concession License, it does not knowingly employ or contract with a worker without authorization who will perform work under this Concession License, nor will it knowingly employ or contract with a worker without authorization to perform work under this Concession License in the future.

2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., and confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Concession License.

3) It will not enter into a contract with a subconsultant or subcontractor that fails to certify to Concessionaire that it shall not knowingly employ or contract with a worker without authorization to perform work under this Concession License.

4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Concession License, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Concession License knowingly employs or contracts with a worker without authorization, it will notify such subconsultant or subcontractor and the City within three (3) days. Concessionaire shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the worker without authorization, unless during the three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with a worker without authorization.

6) It will comply with a reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

c. Concessionaire is liable for any violations as provided in the Certification Ordinance. If Concessionaire violates any provision of this section or the Certification Ordinance, the City may terminate this Concession License for a breach of the Concession License. If this Concession License is so terminated, Concessionaire shall be liable for actual and consequential damages to the City. Any termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Concessionaire from submitting bids or proposals for future contracts with the City.”

6. In the Concession License Terms and Conditions attached to the Concession License, Section 3-13 shall be amended to add a subsection c. to read as follows:

“c. DPR’s Park Use Rules generally prohibits firearms in DPR parks. However, Concessionaire acknowledges and agrees that if any firearms, intended to be owned as personal

property, are brought onto and kept on the Concession Premises, the firearms shall at all times be properly and safely secured and out of sight of patrons and the general public. Concessionaire shall comply with all licensing and other applicable laws regarding gun and firearm ownership and safety. Concessionaire shall also reasonably implement any gun and firearm safety and handling precautions necessary to avoid accidents and injury to any person including Concessionaire, Concessionaire staff and employees, and the general public.”

7. In the Concession License Terms and Conditions attached to the Concession License, Section 8-4, entitled “NO DISCRIMINATION:”, shall be amended to read as follows:

“In connection with the performance of work under the Concession License, Concessionaire agrees to comply with all applicable laws concerning non-discrimination against persons with respect to hiring, discharging, promoting or demoting, and with respect to matters of compensation, and shall not discriminate against any person otherwise qualified, solely because of race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability; and Concessionaire further agrees to insert the foregoing provision in all contracts, subcontracts, or agreements it may enter with respect to the Concession. Concessionaire further agrees to comply with all applicable laws concerning nondiscrimination against persons because of their race, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability in connection with such persons’ access to and use of the Concession and the provision of any services at the Concession.”

8. As herein amended, the Concession License is affirmed and ratified in each and every particular.

9. This First Amendment to Concession License will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

[SIGNATURE PAGES FOLLOW]

Contract Control Number: PARKS-201840617-01 / 202262846
Contractor Name: H.W. Stewart, Inc.

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

PARKS-201840617-01 / 202262846
H.W. Stewart, Inc.

By: WS Carde

Name: Bill Carde
(please print)

Title: Partner
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)